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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/041,979	03/13/1998	RAJENDRA S. YAVATKAR	42390.P4264	4173

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EXAMINER

YAO, KWANG BIN

ART UNIT	PAPER NUMBER
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2664

DATE MAILED: 04/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/041,979	<b>Applicant(s)</b> YAVATKAR ET AL.	
	<b>Examiner</b> Kwang B. Yao	<b>Art Unit</b> 2664	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 January 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Reopening of Prosecution After Appeal***

1. In view of the Appeal Brief filed on 1/30/03, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### ***Response to Declaration filed on 1/9/02***

- 2. The Declaration filed on 1/9/02 under 37 CFR 1.131 has been considered but is ineffective to overcome the Malek et al. (US 6,253,507) reference.
- 3. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Malek et al. (US 6,253,507) reference to either a constructive reduction to practice or an actual reduction to practice. The filed Declaration swears behind the date of September 27, 1997. However, the Malek et al. (US 6,253,507) reference has an earlier filing date September 25, 1997.

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***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-33 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Malek et al. (US 6,253,507).

Malek et al. discloses an apparatus for transporting multimedia information comprising the following features: multimedia traffic handler 400 in Fig. 4 for controlling and associating each data streams, such as video, voice, etc., with the reserved bandwidth C1, C2.

6. Claims 1-6, 10-12, 14-33 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Drake, Jr.; et al. (US 5,461,611).

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Regarding claims 1, 20, 26, 28, Drake, Jr.; et al. discloses a management system for local area networks comprising the following features: a storage medium having stored therein a plurality of programming instructions (Figs. 4-10, column 15, lines 41-46) executable by a processor, wherein when executed, the programming instructions implement a multi-media call application that effectuate quality of service (QOS) guaranty for a packet based multi-media call (CALL) through call associated individual media stream bandwidth control.

Regarding claims 2, 21, Drake, Jr.; et al. discloses the following features: the programming instructions (Figs. 4-10) determine if a sub-net bandwidth manager SBM (Fig. 1, REF 20) that manages network bandwidth is connected to a local area network (Fig. 1, REF 17) LAN through which the CALL is conducted, and if the SBM is connected to the LAN, register the CALL (Fig. 4, REF 62) with the SBM and reserve with the SBM bandwidth for subsequent allocation to media streams of the CALL (Fig. 5).

Regarding claims 3, 23, Drake, Jr.; et al. discloses the following features: the programming instructions make the determination, registration and bandwidth reservation for subsequent allocation to media streams of the CALL as an integral part of establishing a connection for the CALL (Figs. 4-6).

Regarding claims 4, 31, Drake, Jr.; et al. discloses the following features: the programming instructions further subsequently cause the SBM to allocate the reserved bandwidth for the CALL to individual media streams of the CALL (Figs. 4-6).

Regarding claim 5, 24, 32, the programming instructions invoke a bandwidth reservation service to request the SBM to allocate the reserved bandwidth for the CALL

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to individual ones of the media streams of the CALL, providing call level information to the bandwidth reservation service to enable the bandwidth reservation service to include the call level information in the requests for the SBM. See column 4, lines 53-56.

Regarding claim 6, 25, 27, Drake, Jr.; et al. discloses the following features: the programming instructions invoke the bandwidth reservation service to request the SBM to allocate a portion of the reserved bandwidth for the CALL to an individual media stream of the CALL while establishing an individual channel for the individual media stream during the CALL. See column 2, lines 37-41 and lines 50-54.

Regarding claim 10, Drake, Jr.; et al. discloses the following features: A storage medium having stored therein a plurality of programming instructions executable by a processor, wherein when executed, the programming instructions implementing a bandwidth reservation service that requests a sub-net bandwidth manager SBM to allocate a portion of reserved bandwidth for a packet based multi-media call CALL to an individual media stream of the CALL, providing the SBM with call level information to allow the SBM to associate the individual media stream of the CALL with the reserved bandwidth of the CALL, the SBM managing network bandwidth of a local area network LAN through which the CALL is conducted.

Regarding claim 11, Drake, Jr.; et al. discloses the following features: wherein the programming instructions request the SBM to allocate a portion the reserved bandwidth of the CALL to the individual media stream of the CALL while establishing an individual channel for the individual media stream during the CALL.

Regarding claim 12, Drake, Jr.; et al. discloses the following features: the programming instructions are integral part of an operating system.

Regarding claim 14, Drake, Jr.; et al. discloses the following features: (a) a multi-media call application first reserving bandwidth for media streams of a packet based multi-media call (CALL) at a call level with a sub-net bandwidth manager (SBM) that manages network bandwidth of a local area network (LAN) through which the CALL is to be conducted; and (b) the multi-media call application subsequently causing the SBM to allocate the reserved bandwidth for the CALL to individual media streams of the CALL, causing call level information to be provided to the SBM to enable the SBM to associate the individual media streams of the CALL with the reserved bandwidth of the CALL.

Regarding claim 15, Drake, Jr.; et al. discloses the following features: (a) is performed as an integral part of the multi-media call application establishing a connection for the CALL.

Regarding claim 16, Drake, Jr.; et al. discloses the following features: wherein (b) comprises the multi-media call application invoking a bandwidth reservation service to request the SBM to allocate the reserved bandwidth for the CALL to the individual media streams of the CALL, providing the bandwidth reservation service with call level information for inclusion in the requests to enable the SBM to associate the individual media streams of the CALL with the CALL.

Regarding claim 17, Drake, Jr.; et al. discloses the following features: wherein (b) is performed on a per individual media stream basis as an integral part of establishing an individual channel for the individual media stream.

Regarding claim 18, Drake, Jr.; et al. discloses the following features: further comprises (c) the multi-media, call application determining if a call level admission control gatekeeper is connected to the LAN while establishing connection for the CALL.

Regarding claim 19, Drake, Jr.; et al. discloses the following features: if the call level admission control gatekeeper is connected to the LAN, (c) further comprises the multi-media application registering the CALL with the call level admission control gatekeeper in a manner that causes the gatekeeper to determine whether to admit the CALL into the LAN without taking into consideration bandwidth requirement of the CALL.

Regarding claim 29, Drake, Jr.; et al. discloses the following features: a first client computer (Fig. 1, REF 10); a medium (Fig. 1, REF 20) coupled to the first client; and a second client computer (Fig. 1, REF 29), coupled to the medium, that effectuates quality of service QOS guaranty for a packet based multi-media call CALL to the first client computer through call associated individual media stream bandwidth control.

Regarding claim 30, Drake, Jr.; et al. discloses the following features: a subnet bandwidth manager SBM (Fig. 1, REF 23), coupled to the medium, that manages the bandwidth of the network.

Regarding claim 33, Drake, Jr.; et al. discloses the following features: a gateway (Fig. 2, REF 31) coupled to the medium; a gatekeeper (Fig. 1, REF 23) coupled to the medium; and a router (Fig. 1, REF 21, 22) coupled to the medium.



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7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7-9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drake, Jr.; et al. (US 5,461,611) in view of O'Neil et al. (US 5,963,547).

Drake, Jr.; et al. discloses the claimed above. Drake, Jr.; et al. does not disclose the features of: the CALL is an ITU-T H.323 compatible video conference call. O'Neil et al. discloses a centralized conferencing apparatus comprising the following features: the CALL is an ITU-T H.323 compatible video conference call. See column 1, lines 32-46, column 6, lines 22-61. It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of Drake, Jr.; et al. by using the features, as taught by O'Neil et al., in order to provide an efficient data communication by taking advantage of all the call placement, progress, and termination functions in the well known H.323 protocol.

### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kalar et al. (US 5,953,506) discloses an apparatus that provides a scalable media delivery system.

Sandvoss et al. (US 5,745,380) discloses a method for the transmission of multimedia streams.

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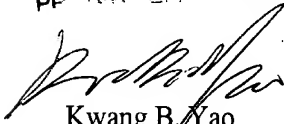
Young et al. (US 5,541,919) discloses a multimedia multiplexing device.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwang B. Yao whose telephone number is 703-308-7583. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 703-305-4366. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

KWANG BIN YAO  
PRINCIPAL EXAMINER



Kwang B. Yao  
April 18, 2003